

Data Protection: Beyond the Basics



Presented by:

L. Elise Dieterich

Partner, CIPP-US
Washington, DC

Elise.Dieterich@KutakRock.com
(202) 828-2432



Atlanta | Chicago | Denver | Fayetteville | Irvine | Kansas City | Little Rock | Los Angeles | Minneapolis | Oklahoma City | Omaha | Philadelphia | Richmond | Rogers | Scottsdale | Spokane | Washington, D.C. | Wichita

Introduction

- Welcome, and thank you for joining us today!
- Does anyone still need convincing that privacy and data security are issues every company needs to be concerned about?



KUTAKROCK.COM

Not Just About Technology Anymore

- Privacy and data security is about protecting core business assets
- IP and PII – two of your most valuable assets
- IT is simply one asset protection tool

Asset Protection Requires a Holistic Approach

- Asset protection and risk management are the overarching goals
 - Protecting IP and PII
 - Avoiding losses and penalties that will arise from a breach
- These imperatives touch nearly every aspect of your business

Legal

- Every legal transaction involving IP or PII should consider:
 - Data security
 - Privacy of customer, employee and patient information
 - Regulatory compliance
- Protection of IP and PII, and avoiding penalties for breach or non-compliance, should be considered in every legal agreement

Compliance

- All personally identifiable information is potentially subject to regulation
 - State data protection and breach notification laws
 - HIPAA
 - GLBA
 - FCRA/FACTA
 - and a host of other sector-specific requirements

Risk Management

- The potential loss of IP or PII is a huge source of risk
- Internal risk management measures should be in place
 - Training
 - Screening
 - Policies
- Cyber-liability insurance can mitigate losses that can't be internally controlled

Human Resources

- In 2017, internal human factors are a greater risk to most businesses' IP and PII than is external hacking
- Mitigation of human risk factors is likely HR's province
 - Training
 - Screening
 - Policies
- Human Resources also controls a large body of sensitive PII

Sales

- Privacy and data security have become competitive differentiators – and selling points – in many sectors
- Depending upon your business, the sales function also can pose significant risk
 - Beware of collection and use of PII without obtaining proper consents

Marketing

- Marketing often is a huge consumer of PII
- Data collection and use rules may constrain how marketing uses PII
- Advertising rules related to consumer privacy also affect the marketing function
 - TCPA
 - Disclosure rules

Corporate Governance

- Ignorance is no longer a defense
- Corporate leadership will be held accountable for privacy and data security failures
- IP and PII risks must be disclosed to investors

Information Technology

- Not just about IT anymore, but privacy and data security still start and end with your IT systems
- Here, too, a holistic approach is beneficial
 - Up-to-date security measures
 - Clear information governance policies
 - Good data hygiene
 - Training

Offense is Easier Than Defense

- It is easier to keep the bad guys out, than to remove them once they're in
- It is easier to protect IP and PII than to recover it once it's lost
- The better your policies, the less 'splaining you'll have to do!

Privacy & Data Security Can Produce ROI!

- But won't this cost us money, and give us little to show in return?
 - Hard to prove the benefits of a negative ("we saved money because we didn't lose IP or PII")
- In fact, addressing privacy and data security proactively can generate tangible ROI
 - Reduced insurance costs
 - Reduced information governance costs

Questions & Conversation

- What keeps you up at night?
- What has your experience been?
 - Success stories
 - Lessons learned

KUTAK
ROCK^{LLP}

KUTAKROCK.COM

Data Protection: Beyond the Basics

KUTAK
ROCK^{LLP}

Presented by:

L. Elise Dieterich

Partner, CIPP-US
Washington, DC

Elise.Dieterich@KutakRock.com

(202) 828-2432





L. Elise Dieterich

Partner, CIPP-US

Kutak Rock—Washington, D.C.
1625 Eye Street NW, Suite 800
Washington, DC 20006

p (202) 828-2432

e Elise.Dieterich@KutakRock.com

Ms Dieterich has more than 25 years of experience advising clients on a wide range of matters affected by government regulation, concentrating during the past 15 years on telecommunications, privacy and data security matters. She also has extensive experience as a litigator and mediator. Ms. Dieterich is a Certified Information Privacy Professional (CIPP-US), credentialed by the International Association of Privacy Professionals.

Ms. Dieterich counsels corporate clients, vendors, internet service providers and website operators on privacy and data security issues including online policies, marketing, data mining and behavioral advertising, cloud computing and other outsourcing contracts, and data breach prevention and management. She also assists clients with FOIA and Privacy Act requests, subpoena compliance, and responses to civil investigative demands.

Ms. Dieterich has represented clients in matters involving numerous state public utility commissions and federal agencies including the FCC, FTC, Department of Commerce, Department of Justice, Department of Energy and EPA, and has litigated in courts across the country.

She is on the Editorial Board of the *Corporate Counselor*, and is a frequent writer and speaker on privacy topics.